

Office of the State Auditor  
Performance Audit Division



# State of Mississippi

**From the Office of State Auditor  
Phil Bryant**

**A Limited Review of the Mississippi State Department of Health's  
Individual Wastewater Disposal System Inspection Process  
In Rankin County**

Report # 73  
June 16, 2003

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STATE OF MISSISSIPPI  
OFFICE OF THE STATE AUDITOR  
**PHIL BRYANT**  
AUDITOR

June 16, 2003

State Board of Health  
State Health Officer Dr. Brian W. Amy, MD, MHA, MHP

Dear Sirs:

The Office of the State Auditor has completed *A Limited Review of the Mississippi State Department of Health's Individual Wastewater Disposal System Inspection Process in Rankin County*. The results of this review are presented to you in the report published herein.

This review was initiated based on the State Department of Health's concern over the unusually large number of errors in permitting on-site wastewater systems in Rankin County.

We trust the results of this report will help the State Board of Health and the State Health Officer in executing their duties to protect the public health and to protect the consumers of individual wastewater disposal systems.

Sincerely,

A handwritten signature in black ink that reads "Phil Bryant". The signature is written in a cursive style.

Phil Bryant  
State Auditor



**Office of the  
State Auditor of Mississippi  
Phil Bryant**

Report # 73  
June 16, 2003

## Report Summary

The State Health Officer requested the Performance Audit Division (Division) of the Office of the State Auditor to review recent problems encountered by the Mississippi State Department of Health (Health) concerning permits for individual wastewater disposal systems in Rankin County.

The Division performed a limited review of Health's response to problems regarding permitting in Rankin County of individual wastewater disposal systems during 2002.

During the course of our review other issues came to our attention that we addressed.

### *Permit Processing System in Rankin County*

#### ***Finding:***

Health became aware of problems with wastewater inspections and approvals in Rankin County with a potential for a public health threat. Health determined that many permits were approved in Rankin County that did not meet regulatory standards, possibly several hundred. Health was not able to determine why the problematic permits were issued; placing the blame on a lack of oversight of environmentalists.

#### ***Recommendation:***

Health reviewed and revised its review procedures for wastewater systems in Rankin County. Health should continue to monitor its wastewater disposal system permitting and specifically its supervision of this important function.

### *Review of Manufacturers and Installers with Numerous and Consistent Complaints*

#### ***Finding:***

Interviews with various Health employees and individual homeowners revealed a consistent pattern of complaints dealing with a particular vendor. Health does not maintain records documenting complaints on wastewater disposal system vendors. Health does not routinely investigate certified vendors/installers that have been identified by consumer complaints as potentially problematic. The failure of Health to initiate license review against vendors with numerous and consistent complaints indicate a lack of compliance with Health's responsibility to protect consumers and the public health in regard to the purchase, operation and maintenance of individual wastewater systems.

#### ***Recommendation:***

Health should initiate a review process for vendors/installers when they receive numerous and consistent complaints. Health should also maintain records documenting complaints and complaint resolution.

### *Inspection/Follow-up of Installed Systems*

#### ***Finding:***

While it is important to insure that the proper wastewater disposal system is determined for installation, there needs to be assurance the correct system is actually installed, operates properly and as time passes, continues to function properly. During the course of our

## *Wastewater Advisory Committee*

review, we determined a need to have a level of assurance relating to installation and maintenance of systems. Health verifies proper installation only when County ordinance requires such action. From discussions with homeowners, it appears that in some cases, the systems were improperly installed and were not tested prior to the installer leaving the location. Additionally, as time passes, systems may fail or cease to properly function. A system failure creates a public health risk just as failing to have a properly installed operational system creates risk.

### ***Recommendation:***

Health should adopt a policy of follow-up procedures to determine if the correct systems were installed and are still functioning as required. The cost to make this determination for 100% of the systems would be prohibitive. However, there could be a follow-up on a test basis, utilizing the history, including complaints, of the systems and installers as a basis for making the selection. This would require Health to centralize information relating to systems and installers. Health would need to continue to check installed systems in Counties that have ordinances requiring such action.

### ***Finding:***

The Wastewater Advisory Committee is an organization created by the State Board of Health to advise the Board regarding state wastewater regulations. One particular member of the Committee is the vendor mentioned as the subject of numerous and consistent complaints.

Health decided that a review of the vendors performance and related certification was not necessary in spite of these numerous and consistent complaints. The fact that numerous complaints and problems were related to a product sold by a member of the Committee and that Health did not review the complaints give the appearance of favoritism at Health.

### ***Recommendation:***

Health should establish policies requiring review and resolution of complaints against Committee members when said complaints appear consistent as to the related problem. Such a policy would assist Health in resolving issues of complaint that could be perceived as a conflict of interest before they become significant resulting in a negative effect on public perception of Health.

### **Contact**

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Director, Performance Audit Division  
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## **Introduction**

### *Purpose*

The State Health Officer requested the Performance Audit Division (Division) of the Office of the State Auditor (OSA) to review the recent problems encountered by the Mississippi State Department of Health (Health) concerning permits for individual wastewater disposal systems in Rankin County.

### *Scope*

The Division performed a limited review of the Health's response to problems regarding permitting in Rankin County of individual wastewater disposal systems during 2002.

### *Method*

Our review included the following procedures:

- review of state laws;
- review of Health's rules and regulations;
- interviews of Health's officials;
- other interviews;
- review of Health's reports and records, and
- other necessary procedures.

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## Background

Health has statutory responsibilities regarding the manufacturing, installation, operation and maintenance of individual on-site wastewater disposal systems in the state.

### *State Laws*

Section 41-67-3 (1), Mississippi Code of 1972, Annotated, describes Health's general responsibilities regarding wastewater disposal systems:

*“The State Board of Health shall have the following duties and responsibilities:*

*(a) To exercise general supervision over the design, construction, operation and maintenance of individual on-site wastewater disposal systems with flows substantially equivalent to a single family residential generator, except when the property owner or lessee chooses to employ a professional engineer to comply with this chapter. To effectively administer this law, the department and the Department of Environmental Quality shall enter into a memorandum of understanding, which at a minimum shall clearly define the jurisdiction of each department with regard to wastewater disposal and procedures for interdepartmental interaction and cooperation; ...*

*(c) To provide or deny certification for persons engaging in the business of the design, construction or installation of individual on-site wastewater disposal systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems;...”*

Section 41-67-5, Mississippi Code of 1972, Annotated, requires applicants to file with Health notices of intent for the installation of individual wastewater systems:

*“No owner, lessee or developer shall construct or place any mobile, modular or permanently constructed residence, building or facility, which may require the installation of an individual on-site wastewater disposal system, without having first submitted a notice of intent to the department. Upon receipt of a notice of intent the department shall provide the owner, lessee or developer with complete information on individual on-site wastewater disposal systems, including but not limited to applicable rules and regulations regarding the design, construction, installation, operation and maintenance of individual on-site wastewater disposal systems and known requirements of lending institutions for approval of the systems.”*

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Section 41-67-6, Mississippi Code of 1972, Annotated, requires Health, within fifteen working days of receipt of a notice of intent, to make recommendations to applicants on the types of individual on-site wastewater disposal systems suitable for installation:

*“Within five (5) working days following receipt of the notice of intent and plot by an owner, lessee or developer of any lot or tract of land, the department shall conduct a soil and site evaluation, except in cases where a professional engineer provides services relating to the design, construction or installation of an individual on-site wastewater disposal system to comply with this chapter. Within ten (10) additional working days, the department shall make recommendations to the owner, lessee or developer of the type or types of individual on-site wastewater disposal systems suitable for installation on the lot or tract, unless there are conditions requiring further investigation that are revealed in the initial evaluation... The system or systems recommended shall be environmentally sound and cost-effective. The department or a professional engineer shall provide complete information, including all applicable requirements and regulations on all systems recommended. The owner, lessee or developer shall have the right to choose among systems.”*

House Bill 845 of the 2003 regular session amended Section 41-67-6, Mississippi Code of 1972 effective upon passage. The Governor signed the bill on April 20, 2003 initiating the following change.

*“Whenever a person requests approval of an individual on-site wastewater disposal system, the department must approve or disapprove the request within fifteen (15) working days. If the department disapproves the request, the department shall state in writing the reasons for the disapproval. If the department does not respond to the request within fifteen (15) working days, the request for approval of the individual on-site wastewater disposal system shall be deemed approved.”*

House Bill 845 of the 2003 regular session also stated in Section 23:

*“The on-site wastewater disposal system advisory committee of the State Department of Health shall study and review the statutory provisions governing individual on-site wastewater disposal system and make recommendations for revisions that will ensure that the state has a coherent and comprehensive law regulating individual on-site wastewater disposal systems. The committee shall examine all aspects of the law and health and environmental concerns, including the economic feasibility and availability of sewers as required by Section 41-67-7, and make recommendations to the legislature on or before September 1, 2004.”*

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**Permitting Process  
for  
Individual Wastewater Systems in Rankin County**

Health became aware of problems with wastewater inspections and approvals in Rankin County. Because the potential for a public health threat existed because of these problems, Health temporarily suspended permitting in Rankin County in January, 2003 to analyze and identify areas of concern in the granting of permits for individual wastewater disposal systems. Health determined that many permits were approved in Rankin County that did not meet regulatory standards, possibly several hundred. While Health was not able to determine why the problematic permits were issued, they admitted a lack of oversight of health employees (environmentalists) performing inspections. Appropriate personnel action was taken concerning environmentalists responsible for the problematic permits.

Health reviewed and revised its review procedures resulting in the reinstatement of wastewater permitting in Rankin County on February 14, 2003. Health developed the following procedures to address concerns in the Rankin County wastewater inspection and approval program:

- Results of the inspections made in Rankin county will be tracked at the rate of 100% for a period of at least 90 days;
- The backlog of site evaluations will be performed based on a prioritized list provided by the Rankin County Building Department;
- A final review of Rankin County inspections will be made by consultant, A.J. Englande, Ph.D., P.E. to provide a 99% assurance of error-free results; and
- The Health's Office of Organizational Quality has implemented a Statewide Quality Improvement Program which includes procedures designed to monitor error rates for all personnel providing wastewater services and to determine if other counties have problems similar to those found in Rankin County.

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## **Process for Review of Individual Wastewater System Manufacturers and Installers with Numerous and Consistent Complaints**

Health clearly has specific statutory responsibilities to protect consumers and the public health regarding the purchase, operation and maintenance of individual wastewater systems.

Section 41-67-3 (1) (c) states in part Health has the responsibility *“to provide or deny certification for persons engaging in the business of the design, constructions or installation of individual on-site wastewater disposal systems...”*.

Section 41-67-3 (1) (a) states in part Health has the responsibility *“to exercise general supervision over the design, construction and maintenance of individual on-site wastewater disposal systems...”*.

Our interviews with various Health employees and individual homeowners in Rankin County and other counties revealed a consistent pattern of complaints dealing with a particular wastewater disposal system vendor/installer. Several homeowners reported continuing malfunctions or complete failure. Interviews with Health employees indicated that many if not most of the permitting problems mentioned in the preceding section of this report were products of the same vendor noted in the pattern of complaints. Several homeowners interviewed stated that they filed formal complaints with Health concerning problems with this same vendor.

OSA requested information from Health listing problems with wastewater disposal systems vendors/installers where individual wastewater system problems and failures had been reported to Health and where vendors/installers were associated with Rankin County permitting problems. Health informed OSA that Health’s central administrative office does not maintain information regarding complaints on vendors/installers. Health said this information may be maintained on the District level, but that any complaints taken at the District level have not been received nor have they been requested by the central administrative office.

Health does not routinely investigate certified vendors/installers that have been identified by consumer complaints as potentially problematic. Health has informed OSA that no administrative action has been taken or is being planned regarding the vendor/installer identified as being problematic by numerous sources. OSA believes the fact that Rankin County and other county homeowners are reporting problems consistently with a specific vendor justify and call for a more serious response to such complaints.

The failure of the Health Department to initiate license review against any vendor/installer after receiving numerous and consistent specific complaints indicate a lack of compliance with Health’s responsibility to protect consumers and the public health in regard to the purchase, operation and maintenance of individual wastewater systems.

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## **Inspection/Follow-up of Installed Systems**

Health clearly has specific statutory responsibilities to protect consumers and the public health regarding the purchase, operation and maintenance of individual wastewater systems.

Section 41-67-3 (1) (a) states in part Health has the responsibility *“to exercise general supervision over the design, construction and maintenance of individual on-site wastewater disposal systems...”*.

While it is important to insure that the proper wastewater disposal system is determined for installation, there needs to be assurance the correct system is actually installed, operates properly and as time passes, continues to function properly. During the course of our review, we determined a need to have a level of assurance relating to installation and maintenance of systems.

Health verifies proper installation only when County ordinance requires such action. From discussions with homeowners, it appears that in some cases, the systems were improperly installed and were not tested prior to the installer leaving the location. Additionally, as time passes, systems may fail or cease to properly function. A system failure creates a public health risk just as failing to have a properly installed operational system creates risk.

Health should adopt a policy of follow-up procedures to determine if the correct systems were installed and are still functioning as required. The cost to make this determination for 100% of the systems would be prohibitive. However, there could be a follow-up on a test basis, utilizing the history, including complaints, of the systems and installers as a basis for making the selection. This would require Health to centralize information relating to systems and installers. Health would need to continue to check installed systems in Counties that have ordinances requiring such action.

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## **Wastewater Advisory Committee**

The Wastewater Advisory Committee (Committee) is an organization created by the State Board of Health to advise the Board regarding state wastewater regulations.

According to Health, the Committee currently has fourteen members. The members represent a cross-section of entities concerned with wastewater systems issues including: Home Builders Association of Mississippi; Mississippi Engineering Society; Department of Environmental Quality; Department of Health; Mississippi Manufactured Housing Association; and nine other entities.

The Committee is a non-voting entity regarding wastewater issues brought before the Board. However, the Committee does advise the Board regarding wastewater regulations and issues considered by the Board. One particular member of the Committee is the vendor mentioned earlier in this report as the subject of numerous and consistent complaints. Also, as mentioned earlier in this report, Health decided a review of the vendor's performance and related certification was not necessary in spite of these numerous and consistent complaints.

These circumstances present Health with the appearance of a conflict of interest. While not technically a violation of law, the appearance of such has caused Health a serious loss of credibility with affected consumers. The fact that numerous complaints and problems were related to a product sold by a member of the Committee and that Health did not review the complaints gives the appearance of favoritism at Health.

Health should establish policies requiring review and resolution of complaints against Committee members when said complaints appear consistent as to the related problem. Such a policy would assist Health to resolve issues of complaint that could be perceived as a conflict of interest before they become significant resulting in a negative effect on public perception of Health.

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## **Findings and Recommendations**

### *Permit Processing System in Rankin County*

#### *Finding:*

Health became aware of problems with wastewater inspections and approvals in Rankin County with a potential for a public health threat. Health determined that many permits were approved in Rankin County that did not meet regulatory standards, possibly several hundred. Health was not able to determine why the problematic permits were issued; placing the blame on a lack of oversight of environmentalists.

#### *Recommendation:*

Health reviewed and revised its review procedures for wastewater systems in Rankin County. Health should continue to monitor its wastewater disposal system permitting and specifically its supervision of this important function.

### *Review of Manufacturers and Installers with Numerous and Consistent Complaints*

#### *Finding:*

Interviews with various Health employees and individual homeowners revealed a consistent pattern of complaints dealing with a particular vendor. Health does not maintain records documenting complaints on septic tank vendors. Health does not routinely investigate certified vendors/installers that have identified by consumer complaints as potentially problematic. The failure of Health to initiate license review against vendors with numerous and consistent complaints indicate a lack of compliance with Health's responsibility to protect consumers and the public health in regard to the purchase, operation and maintenance of individual wastewater systems.

#### *Recommendation:*

Health should initiate a review process for vendors/installers when they receive numerous and consistent complaints. Health should also maintain records documenting complaints and complaint resolution.

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*Inspection/Follow-up of Installed Systems*

*Finding:*

While it is important to insure that the proper wastewater disposal system is determined for installation, there needs to be assurance the correct system is actually installed, operates properly and as time passes, continues to function properly. During the course of our review, we determined a need to have a level of assurance relating to installation and maintenance of systems.

Health verifies proper installation only when County ordinance requires such action. From discussions with homeowners, it appears that in some cases, the systems were improperly installed and were not tested prior to the installer leaving the location. Additionally, as time passes, systems may fail or cease to properly function. A system failure creates a public health risk just as failing to have a properly installed operational system creates risk.

*Recommendation:*

Health should adopt a policy of follow-up procedures to determine if the correct systems were installed and are still functioning as required. The cost to make this determination for 100% of the systems would be prohibitive. However, there could be a follow-up on a test basis, utilizing the history, including complaints, of the systems and installers as a basis for making the selection. This would require Health to centralize information relating to systems and installers. Health would need to continue to check installed systems in Counties that have ordinances requiring such action.

*Wastewater Advisory Committee*

*Finding:*

The Wastewater Advisory Committee is an organization created by the State Board of Health to advise the Board regarding state wastewater regulations. One particular member of the Committee is the vendor mentioned as the subject of numerous and consistent complaints. Health subsequently decided a review of the vendors performance and related certification was not necessary in spite of these numerous and consistent complaints. The fact that numerous complaints and problems were related to a product sold by a member of the Committee and that Health did not seriously review the complaints gives the appearance of favoritism at Health.

*Recommendation:*

Health should establish policies requiring a review and resolution of complaints against Committee members when said complaints appear consistent as to the related problem. Such a policy would assist Health to resolve issues of complaint that could be perceived as a conflict of interest before they become significant resulting in a negative effect on public perception of Health.



MISSISSIPPI STATE DEPARTMENT OF HEALTH  
PERFORMANCE AUDIT FINDINGS

June 9, 2003

Phil Bryant, State Auditor  
Office of the State Auditor  
State of Mississippi  
P.O. Box 956  
Jackson, MS 39205-0956

Dear Mr. Bryant:

We appreciate the prompt response to our request for the performance audit, and we also appreciate the professionalism shown by your staff. The following is our response to the findings of the performance audit titled "A Limited Review of the Mississippi State Department of Health's Individual Wastewater Disposal System Inspection Process In Rankin County."

**AUDIT FINDINGS:**

*Permit Processing System in Rankin County*

**Response:**

We concur with the finding.

**Corrective Action Plan:**

In January 2003, the Mississippi State Department of Health (MSDH) implemented a quality improvement monitoring process to provide oversight for the wastewater disposal system permitting as well as the supervision of this function. The monitoring process has been implemented statewide and will continue.

*Review of Manufacturers and Installers with Numerous and Consistent Complaints*

**Response:**

We concur with the finding.

*Brian W. Amy, MD, MHA, MPH, State Health Officer*

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**Corrective Action Plan:**

In January, MSDH began implementing a complaint department in the Office of Organizational Quality to track all State Department of Health complaints including the wastewater complaints. The Office of Organizational Quality will ensure a resolution to all complaints. Wastewater complaints will be centralized July 1, 2003. The centralization of these complaints will determine when numerous and consistent complaints are received on vendors/installers and a review will be initiated on those vendors/installers immediately.

*Inspection/ Follow-up of Installed Systems*

**Response:**

We concur with the finding.

**Corrective Action Plan:**

MSDH has developed a new software system to centralize all wastewater information and to provide a tool that ensures consistency and standardization of data throughout the State. We will use the data from the new software to follow-up on wastewater systems and installers on a sample basis. The new system will allow us to track the required submission of affidavits by installers to ensure systems are installed correctly in Counties where no ordinances require such action. Also, the information will be published on the agency's web site for public access.

*Wastewater Advisory Committee*

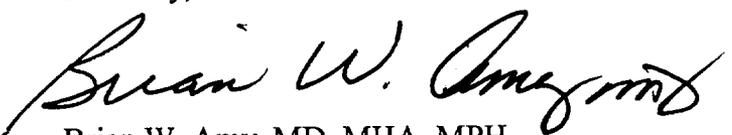
**Response:**

We concur with the finding.

**Corrective Action Plan:**

As stated above, MSDH is in the process of centralizing complaints to ensure resolution. Wastewater Advisory Committee members will be reviewed in the same manner as other vendors/installers. The Wastewater Advisory Committee reports to the Board of Health and the Office of Organizational Quality will notify the Board when consistent complaints are received on advisory committee members.

Sincerely,



Brian W. Amy, MD, MHA, MPH  
State Health Officer